

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0235; Docket No. 2015-0001; Sequence 13]

**General Services Administration Acquisition Regulation;
Submission for OMB Review; Federal Supply Schedule Pricing
Disclosures**

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division is submitting a request to the Office of Management and Budget (OMB) to review and approve an extension of a previously approved information collection requirement regarding General Services Administration Acquisition Regulation clause 552.238-75, Price Reductions, otherwise known as the Price Reductions clause.

The requested extension has been renamed "Federal Supply Schedule Pricing Disclosures" because it now includes a burden estimate for Commercial Sales Practices disclosures. The information collected is used to establish and maintain Federal Supply Schedule pricing and price related terms and conditions. A notice was published in the

Federal Register at 80 FR 72060 on November 18, 2015. One comment was received.

DATES: Submit comments on or before: **[Insert date 30 days after date of publication in the Federal Register].**

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

- Regulations.gov: <http://www.regulations.gov>.
Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 3090-0235, Federal Supply Schedule Pricing Disclosures." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 3090-0235, Federal Supply Schedule Pricing Disclosures" on your attached document.
- Mail: General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW,

Washington, DC 20405. ATTN: Ms. Hada Flowers/IC 3090-0235, Federal Supply Schedule Pricing Disclosures.

Instructions: Please submit comments only and cite Information Collection 3090-0235, Federal Supply Schedule Pricing Disclosures, in all correspondence related to this collection. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Matthew McFarland, General Services Acquisition Policy Division, 202-690-9232 or matthew.mcfarland@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

GSA's Federal Supply Schedule (FSS) program, commonly known as the GSA Schedules program or Multiple Award Schedule (MAS) program, provides federal agencies with a simplified process for acquiring commercial supplies and services. The FSS program is the Government's preeminent contracting vehicle, accounting for approximately 10 percent of all federal contract dollars, with approximately

\$33 billion in purchases made through the program in fiscal year 2015.

GSA is requesting an extension of a previously approved information collection requirement related to one of the major components of the FSS program, General Services Administration Acquisition Regulation (GSAR) clause 552.238-75, Price Reductions, otherwise known as the Price Reductions clause. However, this requested extension has been renamed "Federal Supply Schedule Pricing Disclosures" because it now includes a burden estimate for Commercial Sales Practices disclosures.

FSS Pricing Practices

GSA establishes price reasonableness on its FSS contracts by comparing a contractor's prices and price-related terms and conditions with those offered to their other customers. Through analysis and negotiations, GSA establishes a favorable pricing relationship in comparison to one of the contractor's customers (or category of customers) and then maintains that pricing relationship for the life of the contract. In order to carry out this practice, GSA collects pricing information through Commercial Sales Practices (CSP) disclosures and enforces the pricing relationship through General Services Administration Acquisition Regulation (GSAR) clause

552.238-75, Price Reductions, commonly known as the Price Reductions clause (PRC).

Commercial Sales Practices (CSP): In accordance with GSAR 515.408(a)(2), offerors submit information in the Commercial Sales Practices Format provided in the solicitation, following the instructions at GSAR Figure 515.4-2, or submit information in their own format. In addition to when an offer is submitted, CSP disclosures are also collected prior to executing bilateral modifications for exercising a contract option period, adding items to the contract, or increasing pricing under the Economic Price Adjustment clause (GSAR 552.216-70).

Price Reductions Clause (PRC): GSAR 538.273 (b)(2) prescribes the PRC for use in all FSS solicitations and contracts. The clause is intended to ensure the Government maintains its price/discount (and/or term and condition) advantage in relation to the contractor's customer (or category of customer) upon which the FSS contract is based. The basis of award customer (or category of customer) is identified at the conclusion of negotiations and noted in the contract. Thereafter, the PRC requires FSS contractors to inform the contracting officer of price reductions within 15 calendar days. Per GSAR 552.238-75(c)(1),

A price reduction shall apply to purchases

under this contract if, after the date negotiations conclude, the Contractor—

- (i) Revises the commercial catalog, pricelist, schedule or other document upon which contract award was predicated to reduce prices;

- (ii) Grants more favorable discounts or terms and conditions than those contained in the commercial catalog, pricelist, schedule or other documents upon which contract award was predicated; or

- (iii) Grants special discounts to the customer (or category of customers) that formed the basis of award, and the change disturbs the price/discount relationship of the Government to the customer (or category of customers) that was the basis of award.

41 U.S.C. 152(3)(B) requires FSS ordering procedures to “result in the lowest overall cost alternative to meet the needs of the Federal Government.” CSP disclosures and the PRC ensure GSA meets this objective by giving it insight into a contractor’s pricing practices, which is proprietary information that can only be obtained directly from the contractor.

Information Collection Changes and Updates

GSA has revised this information collection by adding CSP disclosure burden estimates, renaming the information collection, and updating figures.

Including the CSP Disclosure Burden: GSA is adding CSP disclosure burden estimates to this information collection because of comments received for its Transactional Data Reporting proposed rule (GSAR case 2013-G504), published in

the Federal Register at 80 FR 11619, on March 4, 2015. GSA proposed to amend the GSAR to include a clause that would require FSS vendors to report transactional data from orders and prices paid by ordering activities. The new clause would be paired with changes to the basis of award monitoring, or "tracking customer," requirement of the existing Price Reductions clause, resulting in a burden reduction for participating FSS contractors. The proposed rule also noted, "...GSA would maintain the right throughout the life of the FSS contract to ask a vendor for updates to the disclosures made on its [CSP] format... if and as necessary to ensure that prices remain fair and reasonable in light of changing market conditions."

In comments received regarding the proposed rule, industry respondents indicated retaining CSP disclosures would cancel out any burden reduction achieved by eliminating the PRC tracking customer requirement. Specifically, respondents were concerned that CSP disclosures still force them to monitor their commercial prices, which ultimately causes the associated burden for both disclosure requirements. In response, GSA agrees the burden of the PRC and CSP is related and is therefore including CSP disclosure burden estimates in this information collection extension request.

Renaming the Information Collection: GSA is changing the information collection name from "Price Reductions Clause" to "Federal Supply Schedule Pricing Disclosures" to more accurately reflect the scope of the information collected.

Updated Figures: The following figures were updated for the current information collection:

- Increased the number of FSS contracts and vendors from 19,000 FSS contracts held by 16,000 vendors to 20,094 FSS contracts were held by 17,302 vendors.
- Increased the number of price reduction modifications from 1,560 to 2,148.
- Decreased the number of GSA OIG pre-award audits from an average of 70 to 59.
- Increased the estimated annual time burden from 868,920 hours to 1,324,343 hours.
- Increased the estimated annual cost burden; the new estimated annual cost burden is \$90,055,353. The 2012 information collection did not provide a cost burden estimate, but if the same hourly rate (\$68) was applied to the 2012 time burden, the 2012 cost burden would have been \$59,086,560.

B. Annual Reporting Burden

This information collection applies to all companies that held, or submitted offers for, FSS contracts. In fiscal year 2014:

- 20,094 contracts were active, including 1,411 contracts that were awarded and 2,213 contracts that ended over that time period.
- 17,302 companies held FSS contracts (some companies held more than one contract).
- 3,464 offers were submitted for FSS contracts.

However, the number of responses consists of the number of CSP disclosures and price reduction notifications made in FY2014, as well as the average number of GSA Office of Inspector General audits performed between fiscal years 2012 and 2014.

Heavier Lifts and Lighter Lifts

FSS contracts are held by a diverse set of companies, which vary in terms of business size, offerings, and FSS sales volume. For example, in fiscal year 2014:

- 32.8 percent, or 5,673 companies, reported \$0 in FSS contracts.
- 5.6 percent, or 975 companies, accounted for 80 percent of all FSS sales.

- The top 20 percent of FSS contractors (in terms of FY2014 sales) accounted for 95.7 percent of FSS sales.
- Only 2.6 percent of FSS contractors reported more than \$1 million in FSS sales.

In general, a contractor's FSS sales volume will have the greatest effect on the associated burden of these requirements, although the number and type of offerings, and business structure, can also be significant factors. As shown by the above figures, a relatively small number of FSS contractors account for the vast majority of FSS sales and accordingly, likely bear a heavier burden for these requirements. Conversely, the majority of FSS vendors, which are typically small businesses with lower sales volume, absorb a lighter burden for these requirements.

To account for the differences among FSS contractors, GSA is utilizing the Pareto principle, or "80/20 rule," which states 80 percent of effects comes from 20 percent of the population. Accordingly, GSA is separating FSS contractors among those that have a "heavier lift" (20 percent) from those that have a "lighter lift" (80 percent). Contractors with heavier lifts are those with the characteristics that lead to increased burden - more sales volume, higher number of contract items, more complex offerings, more transactions, more complex transactions,

and/or intricate business structures. This methodology is used for several components of the burden analysis.

Cost Burden Calculation

The estimated cost burden for respondents was calculated by multiplying the burden hours by an estimated cost of \$68/hour (\$50/hour with a 36 percent overhead rate).

Price Reductions Clause

For this information collection clearance, GSA attributes the PRC-related burden to training, compliance systems, and audits, as well as a burden associated with notifying GSA of price reductions within 15 calendar days after their occurrence.

Training: FSS contractors provide training to their employees to ensure compliance with FSS pricing disclosure requirements. In FY2014, there were 17,302 contractors, 3,460 (20 percent) with a heavier lift and 13,842 (80 percent) with a lighter lift. Contractors within the heavier lift category may need to develop formal training programs and conduct training for numerous divisions and offices, while contractors in the lighter lift category may have no need for training design and administration due to having as few as one person responsible for PRC compliance.

Training - Heavier Lift

Total Annual Responses: 3,460
Average Hours per Response: 40
Total Time Burden (Hours): 138,400
Total Cost Burden: \$9,411,200

Training - Lighter Lift
Total Annual Responses: 13,842
Average Hours per Response: 20
Total Time Burden (Hours): 276,840
Total Cost Burden: \$18,825,120

Compliance Systems: FSS contractors must develop systems to control discount relationships with other customers/categories of customer to ensure the basis of award pricing relationship is not disturbed. In response to the 2012 information collection request, the Coalition for Government Procurement provided the results from a survey it conducted among its members regarding the PRC burden. The Coalition survey results attributed 1,100 burden hours to developing compliance systems. However, GSA believes this figure is only attributable to heavier lift contractors and should be allocated over the 20-year life of an FSS contract because a significant part of a burden is the effort to establish a compliance system that will be used over the life of the contract. GSA is attributing a total of 600 burden hours to compliance systems for contractors with a lighter lift and is also allocating that burden over a 20-year period. The results are an annual 55-hour burden for heavier lift contractors (1,100 hours

divided by 20 years) and an annual 30-hour burden for lighter lift contractors (600 hours divided by 20 years).

In FY2014, there were 17,302 contractors, 3,460 (20 percent) with a heavier lift and 13,842 (80 percent) with a lighter lift:

Compliance Systems - Heavier Lift
Total Annual Responses: 3,460
Average Hours per Response: 55
Total Time Burden (Hours): 190,322
Total Cost Burden: \$12,940,400

Compliance Systems - Lighter Lift
Total Annual Responses: 13,842
Average Hours per Response: 30
Total Time Burden (Hours): 415,248
Total Cost Burden: \$28,237,680

Audits: The GSA Office of Inspector General (OIG) performed an average of 59 pre-award audits of FSS contracts between FY2012 and FY2014, according to the OIG's Semiannual Congressional Reports over that time period. Respondents to a 2012 Coalition for Government Procurement survey estimated that approximately 440-470 hours were spent preparing for audits involving the PRC; the 455 hour figure is the median point in the range:

GSA OIG Audits
Total Annual Responses: 59
Average Hours per Response: 455
Total Time Burden (Hours): 26,845
Total Cost Burden: \$1,825,460

Price Reduction Notifications: 2,148 price reduction modifications were completed in FY14, with each

modification requiring a notification from the contractor. In a survey conducted among GSA FSS contracting officers, respondents estimated it took an average of 4.25 hours to complete a price reduction modification. GSA believes FSS contractors bear a similar burden for this task and is therefore using the same burden estimate.

Price Reduction Notifications
Total Annual Responses: 2,148
Average Hours per Response: 4.25
Total Time Burden (Hours): 9,129
Total Cost Burden: \$620,772

Commercial Sales Practices Disclosures

The CSP burden results from disclosures required of any contractor submitting an offer for an FSS contract or modifying an FSS contract to increase prices, add items and Special Item Numbers, or exercise options. GSA attributed a negotiations burden to the PRC in the previous information collection, but is now including that burden within the CSP disclosure estimates.

The burden estimates for CSP disclosures are based upon the estimates provided by respondents to the GSA FSS contracting officer survey. While the 77 survey respondents provided estimates regarding the amount of time it takes FSS contracting officers to complete CSP-related tasks, GSA believes FSS contractors bear a similar burden for these tasks and is therefore using the same burden estimates.

Pre-award Disclosures: In FY2014, contractors submitted 3,464 offers for FSS contracts, with 693 (20 percent) offerors having a heavier lift (20 percent) and 2,771 (80 percent) with a lighter lift:

Pre-award Disclosures - Heavier Lift

Total Annual Responses: 693
Average Hours per Response: 41.48
Total Time Burden (Hours): 28,746
Total Cost Burden: \$1,954,704

Pre-award Disclosures - Lighter Lift

Total Annual Responses: 2,771
Average Hours per Response: 32.41
Total Time Burden (Hours): 89,808
Total Cost Burden: \$6,106,951

Price Increase Modifications: In FY2014, 2,509 price increase modifications were processed, including 502 (20 percent) with a heavier lift and 2,007 (80 percent) with a lighter lift:

Price Increases - Heavier Lift

Total Annual Responses: 502
Average Hours per Response: 10.45
Total Time Burden (Hours): 5,246
Total Cost Burden: \$356,721

Price Increases - Lighter Lift

Total Annual Responses: 2,007
Average Hours per Response: 9.71
Total Time Burden (Hours): 18,404
Total Cost Burden: \$1,251,485

Adding Items and Special Item Numbers (SINs): In FY2014, 6,861 modifications to add contract items or SINs were processed, including 1,372 (20 percent) with a heavier lift and 5,489 (80 percent) with a lighter lift:

Addition Modifications - Heavier Lift

Total Annual Responses: 1,372
Average Hours per Response: 11.13
Total Time Burden (Hours): 15,270
Total Cost Burden: \$1,038,384

Addition Modifications - Lighter Lift

Total Annual Responses: 5,489
Average Hours per Response: 10.65
Total Time Burden (Hours): 58,458
Total Cost Burden: \$3,975,134

Exercising Options: In FY2014, 2,237 modifications to exercise options were processed, including 447 (20 percent) with a heavier lift and 1,790 (80 percent) with a lighter lift:

Option Modifications - Heavier Lift

Total Annual Responses: 447
Average Hours per Response: 26.14
Total Time Burden (Hours): 11,685
Total Cost Burden: \$794,551

Option Modifications - Lighter Lift

Total Annual Responses: 1,790
Average Hours per Response: 22.32
Total Time Burden (Hours): 39,953
Total Cost Burden: \$2,716,790

Total Annual Burden

The total estimated burden imposed by Federal Supply Schedule pricing disclosures is as follows:

Estimated Annual Time Burden (Hours)

Price Reductions Clause: 1,056,774
CSP Disclosures: 267,569
Total Annual Time Burden: 1,324,343

Estimated Annual Cost Burden

Price Reductions Clause: \$71,860,632
CSP Disclosures: \$18,194,721
Total Annual Cost Burden: \$90,055,353

C. Discussion and Analysis

A notice of request for comments regarding the extension of Information Collection 3090-0235, Federal Supply Schedule Pricing Disclosures, was published in the **Federal Register** at 80 FR 72060 on November 18, 2015. One respondent provided comments on (1) whether FSS pricing disclosures are necessary and have practical utility, and (2) if GSA's estimates of the collection burden are accurate, and based on valid assumptions and methodology. The following are summaries of those comments and GSA's responses:

Comment: The respondent stated these pricing disclosures no longer have practical utility because pricing under the FSS program is primarily driven by order-level competition. In regards to the Price Reductions clause (PRC), the respondent stated the following:

- GSA's notice of proposed rulemaking for GSAR case 2013-G504, Transactional Data Reporting, which stated "only about 3 percent of the total price reductions received under the price reductions clause were tied to the 'tracking customer' feature. The vast majority (approximately 78 percent) came as a result of

commercial pricelist adjustments and market rate changes, with the balance for other reasons.”¹

- The respondent’s member organizations “overwhelmingly reported that competition in response to known requirements is the most significant driver of reduced pricing for customer agencies.”
- The PRC limits contractors in their ability to offer discounts to certain commercial clients, which undermines competition in the commercial marketplace. In regards to Commercial Sales Practices (CSP)

disclosures, the respondent stated:

- “The current CSP format for disclosures does not provide for consideration of the existing GSA Schedule ordering procedures, creates ambiguity in disclosure requirements, and requires the release of data that exceeds the needs of the government to negotiate fair and reasonable prices.”
- The CSP was developed at a time when the commercial marketplace was less volatile and contractors generally had standard prices and pricelists. However, this is no longer the case, particularly for the service and high-tech industry sectors. As a result, the respondent’s members report “it is difficult to

¹ See GSAR Case 2013-G504; Docket 2014-0020; Sequence 1 [80 FR 11619 (Mar. 4, 2015)]

determine how to respond to and appropriately disclose information requested in the CSP format.”

Response: The PRC and CSP disclosures are a means for GSA to meet its obligation under 41 U.S.C. §152(3)(B), which requires FSS ordering procedures to “result in the lowest overall cost alternative to meet the needs of the Federal Government.” However, GSA is exploring alternatives to these practices. For example, GSA’s Transactional Data Reporting proposed rule would require FSS contractors to report to GSA transactional data - including descriptions of the items purchased, quantities, and prices paid - on orders placed under their FSS contracts. GSA’s experience with transactional data has shown it can lead to better contract-level and order-level prices. As part of GSA’s Transactional Data Reporting proposed rule, GSA proposed removing the basis of award requirement of the PRC when FSS contractors agreed to report transactional data to GSA.²

Comment: The respondent stated the “higher lift” versus “lighter lift” assumptions are not appropriate because its member organizations consisting of both small businesses and large businesses, and both types use consultants and attorneys to assist in completing pre-award

² Id.

CSP disclosures, which aligns both types closer to the higher lift burden estimates.

Response: GSA used this approach to account for the vast disparity in burden among FSS contractors. The amount of "lift" required by a contractor can be affected by factors such as business size, sales volume, and contract-type. The following illustrations show how the burden can vary by each factor:

- A larger business will encounter more obstacles in meeting these requirements, such as coordinating between multiple offices and business lines, than a smaller business with fewer customers.
- Schedule contractors with higher sales volume will likely encounter more situations that require pricing disclosures than those with no sales.
- A higher number of FSS contract line-items require more expansive CSP disclosures and broader PRC basis of award customer monitoring. Typically, product-oriented contracts have more line-items than a service contract and therefore face a higher burden.

Since a single factor alone does not determine a contractor's lift, as these factors are independent of each other (e.g. business size does not determine sales volume or contract-type), it would be inappropriate to categorize

vendors along business or contract attributes. On the other hand, it is appropriate to separate the burden between heavier lift and lighter lift because there are marked differences in the compliance burden. While many contractors do absorb a higher compliance burden, they are not representative of the Schedules program. The following fiscal year 2014 figures illustrate why most vendors would not fall into the heavier lift category:

- Other-than-small businesses accounted for 63% of the total sales but only held 20% of the FSS contracts.
- The top 20 percent of FSS contractors, in terms of FY2014 sales, accounted for 95.7 percent of the overall FSS sales volume.
- 82% of sales were under Schedules that had a majority of sales under service-related SINS, while 18% of sales were made under Schedules that had a majority of sales under product-related SINS. Typically, majority-product contracts have more line items and require a higher burden for FSS pricing disclosure requirements. Some of the majority-service Schedules contain product-related SINS, meaning the service-related sales portion could be under 82%, but service-related sales still undoubtedly account for a majority of the overall FSS sales volume.

Comment: The PRC burden does not account for monitoring activities beyond establishing electronic systems to track pricing. The respondent's members indicated this burden could potentially be 2,000 hours a year for a heavy lift contractor.

Response: GSA's compliance system burden estimate is the highest of the various PRC components because it included monitoring activities. A compliance system encompasses how a contractor maintains compliance with the PRC. Some contractors may invest in an electronic system that requires high upfront investments but automates ongoing monitoring, while others may opt to manually compare their GSA prices to other classes of customers. Accordingly, GSA considered monitoring activities when evaluating the compliance system burden. GSA's annual compliance system burden estimates consist of annual monitoring activities and an allocated portion of the burden for establishing a compliance system. However, GSA is interested in additional comments on whether monitoring activities would take place outside of a compliance system.

Comment: The compliance systems burden of 1,100 hours was taken from the respondent's comments regarding the 2012 information collection extension but incorrectly spread the

burden across a 20-year period. Accordingly, the burden should be 20 times larger than GSA's estimates.

Response: GSA allocated the burden over the full 20-year FSS contract life-cycle because contractors will not establish a new compliance system each year. Typically, a contractor will establish a compliance "system" - which may entail electronic tools or simply be a procedure to manually review pricing - and then commence monitoring activities. Since the compliance system will not be reestablished each year, it should be allocated over the life of the contract. However, GSA invites comments on whether the compliance system burden should be allocated over the full contract life-cycle or another amount of time, such as a single year or a 5-year option period.

Comment: The CSP burden is underestimated because it does not account for the work that contractors do to prepare a CSP before it is presented to a contracting officer.

Response: GSA considered the upfront work needed to prepare CSPs before they are presented to the contracting officer. However, the contracting officer also spends a considerable amount of time evaluating the CSPs. As such, GSA believes the contractor preparation and contracting officer review burdens are comparable. However, GSA

encourages commenters to provide estimates regarding the amount of upfront work needed to prepare a pre-award CSP.

Comment: Several of the respondent's members, most of who fall under the heavy lift category, stated the pre-award CSP burden could exceed 400 hours and the modification preparation burden could be as much as 185 hours.

Response: GSA based its CSP burden estimates on the results of a survey it conducted among its FSS contracting officers. Those results showed a wide variance in the amount of time needed to complete CSP-related activities. For example, FSS contracting officer CSP estimates were as high as 2,400 hours for pre-award CSPs and 206 hours for requests to add items or SINs to the contract. Consequently, statistical methods were used to account for outliers within the responses and provide a reliable average estimate for each component. Specifically, the final averages were calculated using an interquartile mean, derived from an interquartile range (IQR) multiplied by 1.5.

Comment: Contractors that do not maintain standardized pricelists have a more difficult time preparing CSP disclosures and often obtain additional training and/or hire consultants to meet the CSP requirements.

Response: As previously noted, GSA recognized there are several factors that affect the burden and therefore separated contractors into those with heavier lifts and lighter lifts. Contractors that have a difficult time preparing CSP disclosures and therefore choose to obtain additional training and/or hire consultants may fall into the heavier lift category.

Comment: The heavier lift versus lighter lift methodology may not capture all of the heavier lift contractors because many small businesses that would fall in the lighter lift category due to their sales volume still endure a high compliance burden.

Response: As noted above, the heavier lift and lighter lift categories are not determined by a single factor like FSS sales volume; they are reflective of the overall compliance burden. Small businesses with a high compliance burden would fall into the heavier lift category. Conversely, many larger service providers with a high sales volume concentrated in a small number of contracts and fewer contract line-items may fall in the lighter lift category.

Comment: The respondent's small business members report compliance with these disclosure requirements is particularly challenging because unlike larger contractors,

they do not have the resources to invest in compliance. This results in a barrier to entry to the FSS program for small innovative firms.

Response: GSA requires these disclosures as one method of meeting its statutory obligations to provide the "lowest cost alternative," but is exploring options to lower burden. As part of GSA's Transactional Data Reporting proposed rule, GSA proposed removing the basis of award requirement of the PRC when FSS contractors agreed to report transactional data to GSA.³

Comment: The hourly rate GSA used for its estimates (\$68/hour) is understated. For example, some outside consultants hired by contractors to assist with the disclosures may be paid as much as \$200 an hour. The respondent recommends GSA measure the burden by the number of hours or determine a more accurate hourly rate.

Response: The \$68/hour rate consists of a \$50/hour base rate and \$18/hour (36% above the base rate) for fringe benefits. The 36% fringe benefit rate was taken from Office of Management and Budget (OMB) Circular No. A-76, which recommends cost factors to ensure that specific government costs are calculated in a standard and consistent manner to reasonably reflect the cost of performing commercial

³ Id.

activities with government personnel. The standard A-76 cost factor for fringe benefits is 36.25%; GSA opted to round to the nearest whole number for the basis of its burden estimates.⁴

Regarding the base rate, GSA believes these disclosure functions are typically performed by contract administrators with occasional assistance from higher-paid professionals, such as attorneys and consultants. The most comparable labor category to a contract administrator that was analyzed by the Bureau of Labor Statistics (BLS) is a buyer and purchasing agent, whose responsibilities include negotiating contracts. BLS's most recently published hourly rate for this type of professional was \$28.14/hour;⁵ incorporating the 36% fringe benefit factor, the total rate is \$38.27/hour. However, GSA chose to use the higher \$68/hour rate to account for the occasional involvement of higher-paid professionals.

Comment: The respondent calculates the annual PRC burden to be \$850 million when applying GSA's hourly rate (\$68/hour) to their estimate of 12.5 million hours a year. As a result, the value of price reductions should exceed

⁴ See Circular A-76 Figure C1, available at
https://www.whitehouse.gov/omb/circulars/a076/a76_incl_tech_correction/

⁵ See the Bureau of Labor Statistics Occupational Outlook Handbook for Buyers and Purchasing Agents, available at <http://www.bls.gov/ooh/business-and-financial/buyers-and-purchasing-agents.htm#tab-1>

\$850 million in order for the PRC's benefits to outweigh its costs.

Response: GSA requires these disclosures as one method of meeting its statutory obligations to provide the "lowest cost alternative," but GSA is exploring alternative methods. As part of GSA's Transactional Data Reporting proposed rule⁶, GSA proposed removing the basis of award requirement of the PRC when FSS contractors agreed to report transactional data to GSA.

Comment: The respondent provided comments in opposition to GSAR case 2013-G504, Transactional Data Reporting.

Response: GSA is not providing responses to comments on Transactional Data Reporting because they are not directly related to this information collection request.

D. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

⁶ See GSAR Case 2013-G504; Docket 2014-0020; Sequence 1 [80 FR 11619 (Mar. 4, 2015)]

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 3090-0235, FSS Pricing Disclosures, in all correspondence.

Jeffrey A. Koses,
Director, Office of Acquisition Policy,
Office of Government-wide Policy.

[Billing Code: 6820-61]

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